

1885-046 Chancery Causes. William L. Turner, adm. to vs. D. E. Fleenor, adm. to
Lee Co.

Timmons, Orr, Muncy, Wynn, Harris

CA-Debt

T-Property

To the Honorable John Kelly Judge of
the Circuit Court of Lee County Virginia

Your Petitioner ~~James W Orr Attorney in~~
~~fact for~~ C. B. L. Timmons and Sarah St. Tim-
mons his wife, ^{James W Orr Attorney in fact} of the State of Illinois, would
respectfully state and show to your Honor
that the said Sarah St. Timmons a daughter of
Skidmore Mamey deceased is entitled as
a ^{creditor} ~~distributor~~ of the Estate of Elkanah Hym
deceased to the sum of \$115.32 ^{to 1/4 of 461.31 or} $\frac{1}{4}$ as of the 1st
day of September 1873 as is shown by the report
of Henry J Morgan a commissioner in the
case of ~~Wm J Turner~~ Turner Adm^r vs D. E. Hymor
Adm^r & it also now pending in your Honors
Court. Your Petitioner will further state that
the fund to which the said Sarah St. Timmons
is entitled as aforesaid, has been loaned by
Mrs D. Lane a commissioner in said cause un-
der a decree of your Honors Court rendered
in said cause directing so to do.

Your ~~Petitioner~~ will now state that
he has applied to said Commissioner for the
payment of said fund or sum of money but that
said Commissioner was not fully satisfied
that he could safely pay said sum over to your
petitioner without direct authority under
a decree of your Honors Court. Your Petition-
er will state that the objection to payment
as urged by said Commissioner is the very

frequent change of name of the said Sarah
St Timmons, formerly Muncy she having been
married three times, and the further fact that
there is no proof of the death of her two former
husbands. Your Petitioner will now show
your Honor that the said Sarah St Muncy
was first married on the 31st day of January
1858, to William J. Mitty and afterwards
to wit on the 10th day of March 1867 she
was married to James W. Shawie and
that afterwards to wit on the 1st day of Jan'y
1874 she was married to C. L. R. Timmons all
of which fully and at large appear from
the several certificates herewith filed Marked
(B) Your petitioner alleges that it is only
fair to presume that all these marriages were
legal ~~and fair~~ and that the preceding marriage
relation was legally terminated before the
succeeding was entered into as it fully &
clearly appears that all of said marriages were
celebrated in the State of Illinois.

Petitioner also files herewith as part hereof (C)
the affidavit of Thomas M. Harris who
fully identifies the said Sarah St Timmons
as the identical Sarah St Muncy who was
a daughter of said Eldamore Muncy deceased
and the party who is entitled to receive said
sum of money.

Your petitioner is advised that either if ~~they~~
~~if that~~ husbands of the said St Lammans
are living, that they are not and could not
be entitled to said sum or fund because it
is only a chose in action, ^{belonging to the wife &} which survives
to the wife upon the termination of the mari-
tal relation whether by death or divorce
unless reduced to possession by the husband
during the existence of ~~the cohabitation~~ which
was not in this case done. And if there is
any doubt as to this proposition and petition
er thinks there can be none, he argues that, that
Decision is entirely ~~not~~ ^{not} by a Bill
of 14th March 1877 known as the married
womans act. I dehorn files now here
the warrant of Attorney directing and empow-
ering him to receive said sum which is
marked (A) and his prayer is that your
Honor by proper decree direct the said Mr
St Lane Court to pay said sum of money
to him and as in duty he will ever pray &c.

J M Orr Atty in fact.
for C L B & Sarah St Lammans

By C. T. Duncan
Attorney.

H. C. 5.17
A 15.00
Comm. 3.00
\$23.17

J. W. Orr ally to.

re E. Sullivan

W. L. Turner claim to

Filed Mar 27th 1880

J. W. Orr Clerk

1st page

The first page of the
document is a copy of the
original. The second page
is a copy of the original
made with a pen and
ink. The third page is a
copy of the original made
with a pen and ink.

Wm Turner Sumr & Plff

vs.

In chancery

Drury & Flemer Sumr & Dft

This cause came on again this 25th day of March 1885 to be finally heard upon the papers formerly read, the report of M B D Lane special commissar ~~shown filed on the 12th day of September~~ 1884 and exhibits 100. & 200 filed with said report, and was argued by counsel. And it appearing that said report has been filed for more than 10 days before the first day of this term and that no exceptions have been filed thereto said report together with the disbursement made by said commissar as shown by Exhibit Marked 200 filed with said report are each confirmed, And it appearing to the Court that all the matters in this cause have been fully settled and adjusted, & except as to the costs incurred upon the Petition of C L B Simmons & wife by J W Orr their attorney in fact, it is ordered and decreed that said costs be paid by the said Orr for the said Simmons & wife said costs to be taxed by the clerk of this Court and when so paid by the said Orr they shall constitute to him a credit in his settlement with

Wm L. Linnam & Son & Co

no 3 Deane's final

D. C. Linnam & Son & Co,

Wm L. Linnam 1888-

Entered A. B. Page

431. J. R. Linnam & Co.

Entered this account

for A. B. Page.

March 29th 1888-

the said Linnam and wife on account
of the fund received by him from them
from Leane Lane, for which execution
may issue and this cause is stricken
from the docket.

Wm Lumsden & Co

Pff-

In Chancery

against

Drury & Eleanor Anne et al. Defts.

On a petition filed by C. L. B. Linnmons & Sarah
H Linnmons his wife by James W Orr their attorney.
- in fact.

This cause came on again this day to be heard upon the papers formerly read in the cause, and upon said petition and the papers formerly read therein, and the report of H. J. Morgan Commissioner filed March 23rd 1882, which is unexcepted to, and was argued by Counsel. On consideration thereof, and James W Orr attorney in fact for the petitioners offering to execute bond with security, conditioned to ~~pay to any one~~ ^{hereafter appearing, and assenting} ~~in and to the cause~~ ^{and establishing his right to the said fund} ~~Commissioner in the cause, in the payment~~ ^{of the fund in his hand claimed by said} ~~of the fund in his hand claimed by said~~ ^{petitioners, to said attorney in fact,} It is adjudged ordered and decreed that said Commissioner, ^{before the 1st of this month with security approved by him} upon the execution of said bond by said Orr, in a penalty at least double the amount received by him, and with the condition aforesaid, do pay over to said Orr said sum of money heretofore reported by said Court in the cause as belonging to said Sarah H. Limmons, and take his receipt therefor. Said Commissioner will report his action to this Court. And the cause is continued until the coming in of said report.

Wm Loomer Adams &c
vs { Diesel
Drury E. Fleener Adams
et als

Entered page 406.

J. A. Hyatt. C. C.

Enter this Diesel

J. A. K.

Aug 29/84.

Commissioners Office Jonesville Va. March 24-1882

James W. Orr attorney &c. Plff
vs.
Wm. L. Turner admr &c. Dfts } On a Petition

To the Hon. John A. Kelly Judge of the
Circuit Court of Lee County Va.

By a decree entered in the chancery cause of Wm. Turner admr &c. against Drury E. Flennor admr &c. others, on the 29th day of March 1880 I was directed to ascertain and report what interest if any the two former husbands of Sarah H. Timmons had or held in the fund referred in the said decree. With the lights before me I am not prepared to say what interest if any either of them have in the fund in Commissioner Lane's hands.

In the case of Turner vs. Flennor an account was taken of the outstanding debts against the Estate of Elkanah Hyman decd. and among other debts allowed as such against said Hyman's estate was one of some three four or five hundred dollars due the heirs of Skidmore Munsey who died many years ago in some of the western States, perhaps in the State of Illinois. This claim was due to four children the heirs of said Skidmore Munsey. Mr Orr has a Power of Attorney from one B. L. B. Timmons and Sarah H. Timmons his wife, authorizing him to collect for them one fourth part of the fund due said Munsey's heirs in said suit, and their petition has been filed in that suit praying for one fourth part of said fund.

The petition of Mr Orr and the papers filed therewith show the following state of facts. 1st. That Sarah H. Timmons is a daughter of Skidmore Munnely dead & one of his heirs at law. 2ndly That she has been three times married, first to William J. Willey Jan 21 1858. second to James W. Shaver March the 10 1867, and third and last to C B L. Timmons, But the said Petition and papers therewith do not show what has become of the first two husbands, whether dead or living or whether she has been divorced from either one or both. If either one of them is living and their marital rights attached to the money due the wife I do not see any thing to deprive them of an interest therein, for the Married woman's act was passed in 1877. and relates only to two class of cases. as I understand it, first as to property acquired after the passage of the act and secondly as to property owned or acquired by women who marry after the passage of said act. and said three marriages all occurred some years before the act was passed so that the law in force at the date of the said several marriages would prevail so far as this fund is concerned and the rights of the husband would attach thereto. for the fund was due perhaps as far back as 1858 the date of the first marriage.

I file herewith the affidavit of Mr Orr. marked (A B) in which he states on oath what one of two persons stated to him

But this cannot be regarded as evidence because it is
hearsay, and the person who made the statement to him
was not under oath. I have but little doubt, that
with the first husband is dead, and that Shaver the
second deserted the wife, but the difficulty is these facts
are not legally shown.

The papers do show however that said three marriages
were all celebrated in the state of Illinois. The fund now
under consideration and in the Commissioners hands has
been due Skidmore Township since 1863. or 1864 the
date of Wyans death, and so far as the one fourth thereof
is concerned no one has applied for it save Mistress
Timmons, and it does seem to me that it is about
time that we ought to presume in the absence of
proof to the contrary, that she and her present husband
are now legally entitled to demand and have said
fund paid to them. I am therefore disposed to
report that said B. B. L. Timmons and Sarah H. his
wife are now entitled to the money mentioned in
their said petition. It does not seem to me to be a
rash presumption now to assume under all the
circumstances, that the last marriage was regular &
legal, and the former husbands were either dead, or
the bonds of marriage by some other mode dissolved.

If however your Honor should not feel satisfied on
the subject, Mr. Ott. is willing to execute bond with
security to indemnify and save Judge Lane
harmless in the premises as Commissioner

All which is respectfully submitted

Henry J. Morgan Comr.

C. B. L. Turner's wife

Ads. } Commt. Report.

Wm. Turner com. on the

Filed March 23rd 1882

J. A. R. Hyatt
Clerk

Commissaries for \$3.00

Mrs. Turner adm^{rs} &c.

at } In Chancery.
Orany to Fleenor adm^{rs}

The undersigned Commissioner in said Cause, respectfully reports, that pursuant to a decree rendered in said Cause, at the August term 1884, upon the Petition of James W. Orr attorney in fact of C. & L. B. Timmons and Sarah H. Timmons, the said attorney in fact executed his bond before Jas. A. G. Hyatt Clerk of your Honor's Court, for the sum of Two hundred and twenty five Dollars, with C. J. Duncan as his surety, which bond was approved by said Clerk, and is filed, and attached to this report, as part thereof marked (100), and that thereupon your Commissioner paid over to James W. Orr attorney in fact of the said Timmons & wife, Two hundred and Ten Dollars, and sixty five cents, the amount of the principal, and interest, to the 11th day of September 1884, of the sum heretofore found due in this Cause, to Sarah, one of the heirs of Midmore Muncy de'd; and took the receipt of said Orr for said sum, dated the 11th day of Sept 1884, and I herewith file, and attach the same to this report, as part thereof, marked (200)

Respectfully submitted.

Sept 11th 1884

M. B. D. Lane Commissioner.

Received of W. B. D. Lane Commissioner
in the Chancery Cause of Wm Turner admr H.
against Drury & Keener admr H., Two hundred
and Ten Dollars, and sixty five Cents, being
the principal, and interest, to this date of the
sum found due Sarah, one of the heirs of
Skidmore Muncy, by a former decree in said
Cause, and which sum the said Commissioner
was ordered by a decree rendered in said
Cause at the August term 1884, to pay over
to James W. Orr as the attorney in fact of the
said Sarah Muncy, whose power of attorney
to said Orr, is filed in said Cause, with the
petition of said attorney in fact, as Sarah H.
Simmons, and her husband, C. L. B. Simmons.

Witness my hand & seal, this the
10th day of September 1884.

James W. Orr. *Seal*
Attorney in fact for C. L. B. Simmons.
& Sarah H. Simmons.

(200)

Know all men by these presents That
We James H Orr and C. T. Hancock,
are held and firmly bound unto the Commonwealth
of Virginia in the full and full of
four hundred ^{& Twenty five} dollars lawful money of the
United States for the payment of which they
bind themselves heirs &c jointly and several-
ly firmly by these presents, and as to this
bond we each waive our homestead
exemption. Witness our hands and seals
this the 30th day of August, 1884.

The condition of the above obligation is such
that whereas by a decree rendered in the
chancery cause of W^m L Turner Adm^r vs.
Drury Z. Henson Adm^r &c and others, direct-
ing Special Commissioner ^{W B W Lane} to pay over to
James H Orr Attorney in fact of C B L
Turners and Sarah H Timmons his wife
the sum, hitherto ascertained to be due to
the said Sarah H Timmons in said cause
with such interest as has accumulated
thereon, and the said Orr being required
to give bond to repay said sum of money
if it should hereafter be found that either
of the first husbands of the said Sarah H
Timmons is entitled to receive said
money. Now if the said James H Orr
shall repay said sum of money should
either of the first two husbands show

himself entitled to said sum of money
or any part thereof, then this obligation to
be void. Otherwise to remain in full force
and virtue.

James W Orr (Seal)
C. T. Harrison (Seal)

The Commonwealth
vs { Bond \$425.00
Commonwealth
James W Orr.

This bond was executed before me and
the security is considered
sufficient. Sept 17 1884
J. A. Hyatt Jr.

(100)

Wm Turner admsn

W.

Drury Co. Treasurer admsn

Comm. Report

Sept 11th 1884

Filed Sept. 12th 1884

J. A. G. Hyatt

State of Illinois
Juryman Comy T. Thomas M.
Harris being first duly sworn
deposes that ~~he~~ ~~is~~ is
well acquainted with - Mrs
Sarah H. Timmons now a
resident of Cass County - State
of Illinois & wife of Mr
C. L. D. Timmons a resident
of said Cass County - That
said affiant knew said
Sarah H. Timmons in the
County of the State of Indiana
at & after her birth - during
her childhood - that she was
the ~~son~~ child of Edmund
Munsey & his wife Deborah
whose maiden name was Deborah
Harris - That said Sarah
H. Timmons is the same person
& Sarah H. Munsey (formerly) ~~was~~
is the same person - That this
affiant &c -

Thomas W. Harris

Subscribed and sworn to before me this 10th
day of January A.D. 1878

Amos Thompson

County clerk

Garris
affdnt

(6)

Know all Men by these Presents, That *Me C L*
Timmons & Sarah H Timmons his
wife of Menard Co Cass County
State of Illinois

have made, constituted and appointed, and BY THESE PRESENTS do make, constitute and appoint

James W Carr of the County State of Wisconsin
 true and lawful ATTORNEY for *us* and in *our* name, place and stead
 to collect *income & assets* for any
 money that may be *due & owing*
 to either or both of us from the
 estate of *Elkanah Dwyer* died
 by reason of *bequest* of said Sarah
H Timmons formerly *Sarah H*
Murray child of *Shadmoor & Deborah*
Murray of said *Ill* County—

giving and granting unto *our* said ATTORNEY full power and authority to
 do and perform all and every act and thing whatsoever, requisite and necessary to be done in and about the
 premises, as fully, to all intents and purposes as *me* might or could do if personally present,
 with full power of substitution and revocation, hereby ratifying and confirming all that *our* said
 ATTORNEY or *his* substitute shall lawfully do or cause to be done by virtue thereof.

IN WITNESS WHEREOF, *my* have hereunto set *our* hands and seals the
10th day of *January* one thousand eight hundred and
 seventy *eight*

Sealed and Delivered in Presence of

Theo B Bennett
O B Caster

C. L. B Timmons



Sarah H Timmons



STATE OF ILLINOIS,

Menard

COUNTY.

SS.

On the *Tenth* day of *January*
 eighteen hundred and seventy *Eight* before me a *Circuit Clerk*
 of the County of

in the State of *Illinois*

appeared *C L B Timmons & Sarah H Timmons his wife*
 personally known to me to be the real persons whose names *are* subscribed
 to the foregoing POWER OF ATTORNEY, as having executed the same, and then
 acknowledged the execution thereof as *their* free act and deed.

GIVEN UNDER MY HAND AND SEAL of Office at *Petersburg*
Illinois Jan 10/78

Theo B Bennett Circuit Clerk

POWER OF ATTORNEY.

TO

Dated 187

Culver, Page, Hoyne & Co., Stationers, Chicago.

(A)